

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA

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In Re:

JACQUELINE C. SULLIVAN

BKY Case No. 03-51455 RJK

Chapter 13

Debtor(s).

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**NOTICE OF HEARING AND  
MOTION FOR DISMISSAL**

Michael J. Farrell, Chapter 13 Trustee, hereby moves to dismiss the above-entitled Chapter 13 case.

1. The Court will hold a hearing on this motion at 10:00 a.m. on September 27, 2004 in Courtroom 2 – 4<sup>th</sup> Floor, 515 West 1<sup>st</sup> Street, Duluth, Minnesota, 55802.
2. Any response to this motion must be filed and delivered not later than 10:00 a.m. on September 22, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than September 16, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. The Debtor commenced this case by filing a voluntary Chapter 13 petition on November 11, 2003. This case is pending before this Court.
4. The Court has jurisdiction pursuant to 28 U.S.C. § § 157 and 1334. This motion is brought pursuant to 11 U.S.C. §1307, Bankruptcy Rule 1017 and Local Rule 1017.
5. The Debtor has failed to make payments to the Trustee as outlined in the proposed Plan. To date, the Debtor has paid to the Trustee a total of \$2628.00. The last payment made to the Trustee was on April 22, 2004 in the amount of \$432.00. The current monthly payment is \$732.00. The Debtor is currently 5.4 months in default totaling \$3960.00. This amount does not include any payments that may come due between now and the time of the hearing.
6. The Debtor, as stated in the schedules, is a self-employed person. Under 11 U.S.C. § § 1304 (c) and 704 (8), a debtor who is in business is required to submit to the Trustee financial information relative to the operations of the business, including, but not limited to, tax returns, periodic reports, and statements of receipts and disbursements.

The Trustee has written to the Debtor on two separate occasions to request the tax returns and monthly business accounting. The Debtor has failed to provide the required information to the Trustee.

The Trustee requests the Court dismiss this case based on the self-employed Debtor's failure to provide the required periodic business reports.

**WHEREFORE**, the Trustee requests an order as follows:

- (A) Dismissing the above entitled Chapter 13 case; and
- (B) Granting any other relief the Court deems just and proper.

Dated: September 7, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Standing Trustee

PO Box 519

Barnesville, MN 56514

(218) 354-7356

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The undersigned, being an employee of the standing Chapter 13 Trustee, declares that on the date indicated below, I served the following:

Notice of Hearing and Trustee's Motion to Dismiss  
and Unsworn Declaration of Proof of Service

Upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at Barnesville, Minnesota, addressed to each of them as follows:

**Debtor(s):**

JACQUELINE C. SULLIVAN  
27406 GREENWOOD ISLE CIRCLE  
DEERWOOD, MN 56444

**Debtor's Attorney:**

ROBERT J. HOGLUND  
HOGLUND, CHWIALKOWSKI, GREEMAN  
& BERGMANIS, PLLP  
ROSEVILLE, MN 55113

**Additional Copy(s) addressed to:**

BUCHALTER, NEMER, FIELDS & YOUNGER  
SHANNON A. CHLARSON  
895 DOVE ST., SUITE 400  
NEWPORT BEACH, CA 92660

UNITED STATES TRUSTEE  
1015 U.S. COURTHOUSE  
300 W. 4<sup>TH</sup> ST.  
MINNEAPOLIS, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: September 7, 2004

/s/ Belinda D. Kurtz  
Belinda D. Kurtz  
Chapter 13 Office

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This matter came before the Court on September 27, 2004 at 10:00 a.m., or as soon thereafter as could be heard, on a motion by the Chapter 13 Trustee to dismiss this case. The appearances are as noted on the record. The court made its findings and conclusion on the record. Based on the Local and Federal Rules of Bankruptcy Procedure, it is

HEREBY ORDERED:

That this Chapter 13 Case is dismissed.

Dated: \_\_\_\_\_

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Judge Robert J. Kressel  
U.S. Bankruptcy Judge